



## DEPARTMENT OF LABOR

### Wage and Hour Division

#### Agency Information Collection Activities; Comment Request; Information Collections:

#### Employee Polygraph Protection Act

**AGENCY:** Wage and Hour Division, Department of Labor.

**ACTION:** Notice.

**SUMMARY:** The Department of Labor (Department) is soliciting comments concerning a proposed extension of the information collection request (ICR) titled, “Employee Polygraph Protection Act.” This comment request is part of continuing Departmental efforts to reduce paperwork and respondent burden in accordance with the Paperwork Reduction Act of 1995. The Department proposes to extend its information collection without change to existing requirements. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. A copy of the proposed information request can be obtained by contacting the office listed below in the FOR FURTHER INFORMATION CONTACT section of this Notice.

**DATES:** Written comments must be submitted to the office listed in the ADDRESSES section below on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN FEDERAL REGISTER].

**ADDRESSES:** You may submit comments identified by Control Number 1235-0005 by either one of the following methods: E-mail: [WHDPRAComments@dol.gov](mailto:WHDPRAComments@dol.gov); Mail, Hand Delivery, Courier: Division of Regulations, Legislation, and Interpretation, Wage and Hour, U.S. Department of Labor, Room S-3502, 200 Constitution Avenue, NW, Washington, DC 20210.

**Instructions:** Please submit one copy of your comments by only one method. All submissions received must include the agency name and Control Number identified above for this

information collection. Because we continue to experience delays in receiving mail in the Washington, DC area, commenters are strongly encouraged to transmit their comments electronically via e-mail or to submit them by mail early. Comments, including any personal information provided, become a matter of public record. They will also be summarized and/or included in the request for Office of Management and Budget (OMB) approval of the information collection request.

**FOR FURTHER INFORMATION CONTACT:** Amy DeBisschop, Division of Regulations, Legislation, and Interpretation, Wage and Hour Division, U.S. Department of Labor, Room S-3502, 200 Constitution Avenue, NW., Washington, DC 20210; telephone: (202) 693-0406 (this is not a toll-free number). Alternative formats are available upon request by calling 1-866-487-9243. If you are deaf, hard of hearing, or have a speech disability, please dial 7-1-1 to access telecommunications relay services.

## **SUPPLEMENTARY INFORMATION:**

### **I. Background**

The Wage and Hour Division (WHD) of the Department of Labor (DOL) administers the Employee Polygraph Protection Act of 1988 (EPPA), 29 U.S.C. 2001 *et seq.* The EPPA prohibits most private employers from using any lie detector tests either for pre-employment screening or during employment. The Act contains an exemption applicable to federal, state, and local government employers. The EPPA also contains several limited exemptions authorizing polygraph tests under certain conditions, including testing (1) by the federal government of experts, consultants, or employees of Federal contractors engaged in national security intelligence or counterintelligence functions; (2) of employees the employer reasonably suspects of involvement in a workplace incident resulting in economic loss or injury to the employer's business; (3) of some prospective employees of private armored cars, security alarm and security guard firms; and (4) of some current and prospective employees of certain firms authorized to manufacture, distribute, or dispense controlled substances. WHD may assess civil money

penalties against employers who violate any EPPA provision. This amount increases annually due to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015.

## **II. Review Focus**

The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Enhance the quality, utility, and clarity of the information to be collected;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; or
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

## **III. Current Actions**

The Department of Labor seeks an approval for the extension of this information collection that requires employers to make, maintain, and preserve records in accordance with statutory and regulatory requirements.

Type of Review: Extension.

Agency: Wage and Hour Division.

Title: Employee Polygraph Protection Act.

OMB Control Number: 1235-0005

Affected Public: Business or other for-profit, Not-for-profit institutions.

Total Respondents: 164,000

Total Annual Responses: 757,400

Estimated Total Burden Hours: 68,779

Estimated Time per Response: 30 – 45 minutes.

Frequency: On occasion.

Total Burden Cost (Capital/Startup): \$0

Total Burden Costs (Operation/Maintenance): \$0

Dated: February 21, 2023

**Amy DeBisschop,**

Director, Division of Regulations, Legislation, and Interpretation.

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